

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

_____	X	
In re PAYMENT CARD INTERCHANGE	:	No. 05-md-1720 (MKB)(JO)
FEE AND MERCHANT DISCOUNT	:	
ANTITRUST LITIGATION	:	JOINT STATUS CONFERENCE STATEMENT
_____	:	
	:	CONFERENCE DATE: MAY 8, 2019
This Document Relates To:	:	
	:	
ALL ACTIONS.	:	
_____	:	
	X	

The parties respectfully submit this Joint Case Status Report for the Case Management Conference currently scheduled for May 8, 2019. The parties respectfully suggest that the status conference be cancelled.

**I. PENDING MOTION**

The bank defendants' motion to dismiss all claims asserted against them in the *Barry's* Action is fully briefed (ECF Nos. 7399, 7400, 7402). In the event oral argument on the motion would assist the Court, the parties are prepared to present argument at the Court's convenience.

**II. STATUS OF DISCOVERY/EXPERT REPORTS**

The parties continue to work cooperatively on discovery. Depositions of the defendants, Target Plaintiffs, The Home Depot, the Hertz Plaintiffs, the Dollar General Plaintiffs, the 7-Eleven Plaintiffs, Roundy's, and representatives for the Rule 23(b)(2) Plaintiffs are complete. The deadlines to complete discovery have been extended in certain actions.

Several parties are continuing to work with each other concerning questions and issues related to their respective document and data productions. There are no discovery disputes that are ripe for the court to address. The parties reserve their rights to raise data issues that they are unable to resolve, including questions about data that has yet to be produced.

Plaintiffs served their responses to defendants' first set of contention interrogatories on February 19, 2019. Defendants are in the process of evaluating the responses and potential next steps.

Expert discovery is ongoing. Pursuant to the order entered April 12, 2019, defendants' rebuttal expert reports shall be served by June 10, 2019.

### **III. AMENDED AND NEW COMPLAINTS**

On October 11, 2018, the defendants filed a letter for a pre-motion conference regarding their intention to move, pursuant to Rule 12(b)(1), to dismiss all claims the plaintiffs assert on behalf of subsidiaries, affiliates, and franchisees that are not named as plaintiffs in *7-Eleven, Inc. et al. v. Visa Inc. et al.*, No. 13-cv-5746-MKB-JO (E.D.N.Y.), *Roundy's Supermarkets, Inc. v. Visa Inc.*, No. 13-cv-5746-MKB-JO (E.D.N.Y.), *Hertz Corp. et al. v. Visa U.S.A. Inc. et al.*, No. 17-cv-3531-MKB-JO, *Dollar General Corp. et al. v. Visa U.S.A. Inc. et al.*, No. 17-cv-5988-MKB-JO (E.D.N.Y.), and *Home Depot, Inc. et al. v. Visa Inc. et al.*, No. 16-cv-5507-MKB-JO (E.D.N.Y.). The parties to the aforementioned actions are currently engaging in the meet and confer process and discussing a possible resolution that may allow them to avoid motion practice. On February 1, 2019, the Court entered a stipulated proposed order withdrawing the defendants' request for a pre-motion conference without prejudice to renewal. Defendants' deadlines to file answers to the complaints in the above-referenced actions are tolled for each action until (a) 30 days after the filing of an amended complaint; (b) 30 days after the parties reach agreement that no amendment is required to resolve the issues set forth in Defendants' October 11, 2018 letter; or (c) in the event Defendants renew their request for a pre-motion conference, 30 days following the Court's order granting or denying Defendants' Rule 12(b)(1) motion.

Dated: May 1, 2019

Respectfully submitted,

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